



February 17, 2009

HOUSE BILL No. 1546

DIGEST OF HB 1546 (Updated February 12, 2009 10:44 am - DI 96)

Citations Affected: IC 2-3.5; IC 5-10.2; noncode.

Synopsis: Public retirement fund benefits. Permits members of the teachers' retirement fund (TRF) and the public employees' retirement fund (PERF) to change investment selections once each day, with the change being effective on the next business day after the fund receives the change notice. Establishes the market valuation date of a member's investment as of five business days before the date of the member's distribution or annuitization at retirement, disability, or suspension and withdrawal. Codifies a noncode provision that permits members of the legislator's retirement system to change investment selections once each day. Repeals the noncode provision. Provides for a thirteenth check for members, survivors, and beneficiaries of the public employees' retirement fund and retirees of the legislators' defined benefit plan.

Effective: July 1, 2009; January 1, 2010.

Niezgodski

January 16, 2009, read first time and referred to Committee on Labor and Employment.
February 16, 2009, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

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HB 1546—LS 7419/DI 102+



February 17, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1546

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 2-3.5-5-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 3. (a) The PERF
3 board shall establish alternative investment programs within the fund,
4 based on the following requirements:

5 (1) The PERF board shall maintain at least one (1) alternative
6 investment program that is an indexed stock fund and one (1)
7 alternative investment program that is a bond fund.

8 (2) The programs should represent a variety of investment
9 objectives.

10 (3) The programs may not permit a member to withdraw money
11 from the member's account, except as provided in section 6 of this
12 chapter.

13 (4) All administrative costs of each alternative program shall be
14 paid from the earnings on that program.

15 (5) A valuation of each member's account must be completed: ~~as~~
16 ~~of:~~

17 (A) **as of** the last day of each quarter; **and**

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(B) whenever the member makes a new investment selection, as of the day before the effective date of the member's selection.

(b) A member shall direct the allocation of the amount credited to the member among the available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection under rules established by the PERF board. The PERF board shall allow a member to make a selection or change any existing selection ~~at least~~ once each ~~quarter~~ **day**.

(2) The PERF board shall implement the member's selection ~~beginning the first day of the next calendar quarter that begins at least thirty (30) days on the next business day~~ after the selection is received by the PERF board. This date is the effective date of the member's selection.

(3) A member may select any combination of the available investment funds, in ten percent (10%) increments.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on the market value on the effective date.

(6) If a member does not make an investment selection of the alternative investment programs, the member's account shall be invested in the PERF board's general investment fund.

(7) All contributions to the member's account shall be allocated as of the last day of the quarter in which the contributions are received **or at an alternate time established by the rules of the board** in accordance with the member's most recent effective direction. The PERF board shall not reallocate the member's account at any other time.

(c) When a member transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection. When a member retires, becomes disabled, dies, or withdraws from the fund, the amount credited to the member shall be:

(1) the market value of the member's investment as of the last day of the quarter date preceding the member's distribution or annuitization at retirement, disability, death, or withdrawal **by**

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1 **five (5) business days; plus**

2 **(2) contributions received after that date.**

3 (d) The PERF board shall determine the value of each alternative
4 program in the defined contribution fund, as of the last day of each
5 calendar quarter, as follows:

6 (1) The market value shall exclude the employer contributions
7 and employee contributions received during the quarter ending on
8 the current allocation date.

9 (2) The market value as of the immediately preceding quarter end
10 date shall include the employer contributions and employee
11 contributions received during that preceding quarter.

12 (3) The market value as of the immediately preceding quarter end
13 date shall exclude benefits paid from the fund during the quarter
14 ending on the current quarter end date.

15 SECTION 2. IC 5-10.2-2-3, AS AMENDED BY P.L.2-2006,
16 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JANUARY 1, 2010]: Sec. 3. (a) The annuity savings account consists
18 of:

19 (1) the members' contributions; and

20 (2) the interest credits on these contributions in the guaranteed
21 fund or the gain or loss in market value on these contributions in
22 the alternative investment program, as specified in section 4 of
23 this chapter.

24 Each member shall be credited individually with the amount of the
25 member's contributions and interest credits.

26 (b) Each board shall maintain the annuity savings account program
27 in effect on December 31, 1995 (referred to in this chapter as the
28 guaranteed program). In addition, the board of the Indiana state
29 teachers' retirement fund shall establish and maintain a guaranteed
30 program within the 1996 account. Each board may establish investment
31 guidelines and limits on all types of investments (including, but not
32 limited to, stocks and bonds) and take other actions necessary to fulfill
33 its duty as a fiduciary of the annuity savings account, subject to the
34 limitations and restrictions set forth in IC 5-10.3-5-3 and
35 IC 5-10.4-3-10.

36 (c) Each board shall establish alternative investment programs
37 within the annuity savings account of the public employees' retirement
38 fund, the pre-1996 account, and the 1996 account, based on the
39 following requirements:

40 (1) Each board shall maintain at least one (1) alternative
41 investment program that is an indexed stock fund and one (1)
42 alternative investment program that is a bond fund.

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(2) The programs should represent a variety of investment objectives under IC 5-10.3-5-3.

(3) No program may permit a member to withdraw money from the member's account except as provided in IC 5-10.2-3 and IC 5-10.2-4.

(4) All administrative costs of each alternative program shall be paid from the earnings on that program or as may be determined by the rules of each board.

(5) A valuation of each member's account must be completed: ~~as of:~~

(A) ~~as of~~ the last day of each quarter; ~~or and~~

(B) ~~another time as each board may specify by rule.~~

(B) whenever the member makes a new investment selection, as of the day before the effective date of the member's selection.

(d) The board must prepare, at least annually, an analysis of the guaranteed program and each alternative investment program. This analysis must:

(1) include a description of the procedure for selecting an alternative investment program;

(2) be understandable by the majority of members; and

(3) include a description of prior investment performance.

(e) A member may direct the allocation of the amount credited to the member among the guaranteed fund and any available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection under rules established by each board. A board shall allow a member to make a selection or change any existing selection ~~at least once each quarter: day.~~

(2) The board shall implement the member's selection ~~beginning the first day of the next calendar quarter that begins at least thirty (30) days on the next business~~ after the selection is received by the board. ~~or an alternate date established by the rules of each board:~~ This date is the effective date of the member's selection.

(3) A member may select any combination of the guaranteed fund or any available alternative investment funds, in ten percent (10%) increments or smaller increments that may be established by the rules of each board.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in

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accordance with the member's direction, based on:

(A) for an alternative investment program balance, the market value on the effective date; and

(B) for any guaranteed program balance, the account balance on the effective date.

All contributions to the member's account shall be allocated as of the last day of that quarter or at an alternate time established by the rules of each board in accordance with the member's most recent effective direction. The board shall not reallocate the member's account at any other time.

(f) When a member who participates in an alternative investment program transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program or to the guaranteed program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection. ~~or at an alternate time established by the rules of each board.~~ When a member who participates in an alternative investment program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be:

(1) the market value of the member's investment as of the ~~last day of the quarter date~~ preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal **by five (5) business days**; plus

(2) contributions received after that date. ~~or at an alternate time established by the rules of each board.~~

(g) When a member who participates in the guaranteed program transfers the amount credited to the member to an alternative investment program, the amount credited to the member in the guaranteed program is computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the ~~last day of the quarter preceding~~ **before** the effective date of the transfer. ~~However, each board may by rule provide for an alternate valuation date.~~ When a member who participates in the guaranteed program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be computed without regard to market value and is based on:

(1) the balance of the member's account in the guaranteed program as of the ~~last day of the quarter date~~ preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal **by five (5) business days**;

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1 plus

2 (2) any contributions received since that date plus interest since
3 that date. ~~However, each board may by rule provide for an~~
4 ~~alternate valuation date.~~

5 SECTION 3. IC 5-10.2-4-2, AS AMENDED BY P.L.115-2008,
6 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JANUARY 1, 2010]: Sec. 2. (a) Unless a member elects otherwise
8 under this section or has elected to withdraw the member's annuity
9 savings account under IC 5-10.2-3-6.5, the retirement benefit for each
10 member consists of the sum of a pension provided by employer
11 contributions plus an annuity provided by the amount credited to the
12 member in the annuity savings account. If a member has elected to
13 withdraw the member's annuity savings account under IC 5-10.2-3-6.5,
14 the member's retirement benefit is equal to the pension provided by
15 employer contributions, unless the member has transferred the
16 creditable service earned under the public employees' retirement fund
17 to another governmental retirement plan under IC 5-10.2-3-1(i).

18 (b) If a member has not elected to withdraw the entire amount in the
19 member's annuity savings account under IC 5-10.2-3-6.5, a member
20 may choose at retirement or upon a disability retirement to receive a
21 distribution of:

22 (1) the entire amount credited to the member in the annuity
23 savings account; or

24 (2) an amount equal to the member's federal income tax basis in
25 the member's annuity savings account balance as it existed on
26 December 31, 1986.

27 If the member chooses to receive the distribution under subdivision (1),
28 the member is not entitled to an annuity as part of the retirement or
29 disability benefit. If the member chooses to receive the distribution
30 under subdivision (2), the member is entitled to an annuity purchasable
31 by the amount remaining in the member's annuity savings account after
32 the payment under subdivision (2).

33 (c) Instead of choosing to receive the benefits described in
34 subsection (a) or (b), if a member has not elected to withdraw the entire
35 amount in the member's annuity savings account under IC 5-10.2-3-6.5,
36 a member may choose upon retirement or upon disability retirement to
37 begin receiving a pension provided by employer contributions and to
38 defer receiving in any form the member's annuity savings account. If
39 a member chooses this option, the member:

40 (1) is not entitled to an annuity as part of the member's retirement
41 or disability benefit, and the member's annuity savings account
42 will continue to be invested according to the member's direction

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under IC 5-10.2-2-3; and

(2) may later choose, as of the first day of a month, or an alternate date established by the rules of each board, to receive a distribution of:

(A) the entire amount credited to the member in the annuity savings account; or

(B) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (2)(A), the member is not entitled to an annuity as part of the member's retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2)(B), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2)(B). If the member does not choose to receive a distribution under this subsection, the member is entitled to an annuity purchasable by the entire amount in the member's annuity savings account, and the form of the annuity shall be as described in subsection (d) unless the member elects an option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter. The amount to be paid under this section shall be determined in the manner described in IC 5-10.2-2-3. ~~except that it shall be determined as of the last day of the quarter preceding the member's actual distribution or annuitization date.~~ However, each board may by rule provide for an alternate valuation date.

(d) Retirement benefits must be distributed in a manner that complies with Section 401(a)(9) of the Internal Revenue Code, as specified in IC 5-10.2-2-1.5.

SECTION 4. P.L.180-2007, SECTION 13, IS REPEALED [EFFECTIVE JANUARY 1, 2010].

SECTION 5. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "fund" refers to the public employees' retirement fund established by IC 5-10.3-2-1.**

(b) As used in this SECTION, "plan" refers to the legislators' defined benefit plan described in IC 2-3.5-4.

(c) Not later than September 1, 2009, the fund shall pay the amount determined under subsection (d) to:

(1) a member of the fund (or to a survivor or beneficiary of a member); or

(2) a participant of the plan;

who retired or was disabled before January 1, 2009, and who is entitled to receive a monthly benefit on July 1, 2009. The amount

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shall be paid as a single check and is not an increase in the pension portion of the monthly benefit.

(d) The amount paid under this SECTION to a member of the fund (or to a survivor or beneficiary of a member) or a participant of the plan who meets the requirements of subsection (c) is determined as follows:

| If a Member's or Participant's Creditable Service Is: | The Amount of the Check Is: |
|--|--------------------------------|
| At least 5 years, but less than 10 years (only in the case of a member receiving disability retirement benefits) | \$150 |
| At least 10 years, but less than 20 years | \$275 |
| At least 20 years, but less than 30 years | \$375 |
| At least 30 years | \$450 |

(e) The creditable service used to determine the amount paid to a member (or to a survivor or beneficiary of the member) or a participant of the plan under this SECTION is the creditable service that was used to compute:

(1) the member's retirement benefit under IC 5-10.2-4-4; or
(2) the participant's retirement benefit under IC 2-3.5-4-3;
except that partial years of creditable service may not be used to determine the amount paid under this SECTION.

(f) This SECTION expires January 1, 2010.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1546, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1546 as introduced.)

NIEZGODSKI, Chair

Committee Vote: yeas 9, nays 0.

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